

Senate Bill 622

By: Senators Tarver of the 22nd and Whitehead, Sr. of the 24th

AS PASSED SENATE

A BILL TO BE ENTITLED

AN ACT

To amend Article 15 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to hospital acquisition, so as to change certain provisions relating to notice of acquisition to the Attorney General; to change certain provisions relating to content and form of notice to the Attorney General, fees, and retention of experts; to provide an effective date; to repeal conflicting laws; and for other purposes.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:

SECTION 1.

Article 15 of Chapter 7 of Title 31 of the Official Code of Georgia Annotated, relating to hospital acquisition, is amended by striking Code Section 31-7-401, relating to notice of acquisition to the Attorney General, and inserting in lieu thereof the following:

"31-7-401.

(a) No acquiring entity shall engage in an acquisition without first notifying the Attorney General pursuant to this article. No nonprofit corporation which owns, controls, or operates, directly or indirectly, a hospital having a permit under this chapter shall engage in a disposition without first notifying the Attorney General pursuant to this article. The parties to the transaction shall provide the Attorney General with at least 90 days' notice of the proposed transaction prior to its consummation, except as otherwise provided by subsection (b) of this Code section.

(b) If an acquiring entity has withdrawn from the acquisition of a hospital after the Attorney General has scheduled a public hearing pursuant to Code Section 31-7-405 with respect to such acquisition, the parties to any subsequent transaction shall provide the Attorney General with at least 30 days' notice of the proposed transaction prior to its consummation; provided, however, that this subsection shall apply only if the notice of the subsequent transaction is given within one year after the date of the canceled hearing."

SECTION 2.

Said article is further amended by striking Code Section 31-7-402, relating to content and form of notice to the Attorney General, fees, and retention of experts, and inserting in lieu thereof the following:

"31-7-402.

(a) Notice to the Attorney General required by this article shall include the name of the seller or lessor; the name of the acquiring entity and other parties to the acquisition; the county in which the main campus of the hospital is located; the terms of the proposed agreement and any related agreements including leases, management contracts, and service contracts; the acquisition price; a copy of the acquisition agreement and any related agreements including leases, management contracts, and service contracts; any valuations of the hospital's assets prepared in the three years immediately preceding the proposed transaction date; a financial and economic analysis and report from any expert or consultant retained by the seller or lessor which addresses each of the criteria set forth in Code Section 31-7-406; articles of incorporation and bylaws of the nonprofit corporation and related entities and foundations; all donative documents reflecting the purposes of prior gifts of more than \$100,000.00 in value by donors to the nonprofit corporation or any related entities or foundations for or on behalf of the hospital; and all documents pertaining to the disposition of assets, including those documents which are included as schedules or exhibits to the acquisition agreement and any related agreements.

(a.1) Parties may submit to the Attorney General a signed agreement or agreements regarding a proposed acquisition or disposition of a nonprofit hospital which, though effective as of the date signed, contains provisions:

(1) Making the consummation of the disposition contingent upon completion of the notice and hearing provisions required by this article and receipt of the report of findings of the Attorney General issued pursuant to Code Section 31-7-407.1; and

(2) Authorizing the parties to modify the acquisition agreement to address any issues raised during the public hearing process or in the Attorney General's report of findings.

(b) The Attorney General may ~~prescribe~~:

(1) Prescribe a form of notice to be utilized by the seller or lessor and the acquiring entity and may require information in addition to that specified in this article if the disclosure of such information is determined by the Attorney General to be in the public interest; and

(2) Notwithstanding the provisions of subsection (a) of this Code section, permit the parties to submit any of the documents, agreements, reports, or other papers described in said subsection after the filing of the notice to the Attorney General, provided that all

1 such documents, agreements, reports, and other papers shall be submitted not later than
2 14 days prior to the holding of the public hearing required by Code Section 31-7-406 and
3 shall be available for public inspection at the hospital being acquired not later than 14
4 days prior to the holding of such public hearing.

5 The notice to the Attorney General required by this article and all documents related thereto
6 shall be considered public records pursuant to Code Section 50-18-70.

7 ~~(c) Notice to the Attorney General shall be accompanied by the payment by either the~~
8 ~~seller or lessor, or by the acquiring entity, of a fee in the amount of \$50,000.00.~~

9 ~~(d) The Attorney General shall be authorized to retain financial, economic, health~~
10 ~~planning, or other experts or consultants to assist in addressing each of the criteria set forth~~
11 ~~in Code Section 31-7-406. The Attorney General shall be authorized to retain financial,~~
12 ~~economic, health planning, or other experts or consultants to assist in addressing each of~~
13 ~~the criteria set forth in Code Section 31-7-406. Within 30 days after notice from the~~
14 ~~Attorney General, the cost and expense incurred in connection with the retention of such~~
15 ~~experts or consultants shall be paid directly to each of such experts and consultants by the~~
16 ~~parties to the proposed transaction in such proportionate amounts as the parties to the~~
17 ~~proposed transaction may agree or otherwise as determined by the Attorney General;~~
18 ~~provided, however, that the parties to the proposed transaction shall not be required to pay~~
19 ~~any portion of such cost and expense that exceeds a total amount of \$60,000.00."~~

20 SECTION 3.

21 This Act shall become effective upon its approval by the Governor or upon its becoming law
22 without such approval.

23 SECTION 4.

24 All laws and parts of laws in conflict with this Act are repealed.